

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

– against –

COREY JAMES,

Defendant.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ NOV 19 2013 ★

BROOKLYN OFFICE

08-CR-681

Statement of Reasons Pursuant to
18 U.S.C. § 3553(c)(2)

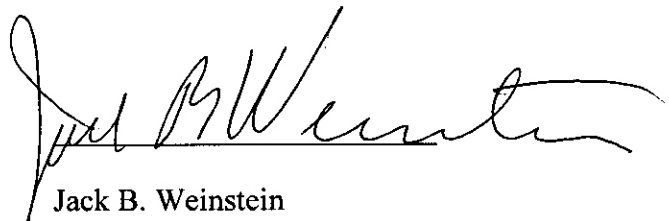
JACK B. WEINSTEIN, Senior United States District Judge:

A sentencing court shall “state in open court the reasons for its imposition of the particular sentence.” 18 U.S.C. § 3553(c). If the sentence is not of the kind prescribed by, or is outside the range of, the Sentencing Guidelines referred to in Section 3553(a)(4), the court shall indicate the specific reasons for imposing a sentence different from the Guidelines. 18 U.S.C. § 3553(c)(2). These “reasons must also be stated with specificity in the written order of judgment and commitment.” *Id.* Even though the mandatory nature of the Guidelines has been excised and they are now “advisory,” see *United States v. Booker*, 543 U.S. 220, 245-46 (2005), the sentencing court must still adhere to the requirements of 18 U.S.C. § 3553(c)(2). *United States v. Jones*, 460 F.3d 191, 197 (2d Cir. 2006).

The sentencing court’s written statement of reasons shall be “a simple, fact-specific statement explaining why the Guidelines range did not account for a specific factor or factors under § 3553(a).” *United States v. Rattoballi*, 452 F.3d 127, 138 (2d Cir. 2006). Such a statement should demonstrate that the court “considered the parties’ arguments and that it has a reasoned basis for exercising its own legal decisionmaking authority.” *United States v. Cavera*, 550 F.3d 180, 193 (2d Cir. 2008) (quoting *Rita v. United States*, 551 U.S. 338, 356 (2007)) (internal quotations and alterations omitted).

The findings and inquiries made at Mr. James's 2011 sentencing are accepted by the government and the defendant. The prior sentencing memorandum is incorporated. *See* ECF No. 131. The parties agree and the court finds that the applicable mandatory minimum is 5 years and that the appropriate guidelines range is 188-235 months.

Mr. James is resentenced to 60 months. He has successfully completed a number of programs while he has been incarcerated. He has plans for employment and a place of abode upon release that seem reasonable, though they may be difficult to carry out in light of his background.

A handwritten signature in black ink, appearing to read 'Jack B. Weinstein', written over a horizontal line.

Jack B. Weinstein
Senior United States District Judge

Dated: November 18, 2013
Brooklyn, New York